IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

Crl.Rev.Pet.No. 3334 of 2007()

CRA.249/2007 of SESSIONS COURT, KOZHIKOE
S.T. NO.2244 OF 2004 OF THE J.F.C.M. III, KOZHIKODE

REVN. PETITIONER: APPELLANTS

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1. MARY, AGED 45 YEARS, W/O.PAULOSE,
   KUMBLERY PO, KEERIKKATTIL HOUSE,
   AMBALAVAYA, WAYANAD.

2. LILLY, AGED 30 YEARS,
   W/O.PAULOSE, CHENNAL HOUSE,
   KUMBLERI PO, WAYANAD

BY ADV. SRI.RAFFEEKH.K

RESPONDENTS: RESPONDENTS

THE STATE OF KERALA,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO. 3334 of 2007

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Dated: 14th September 2007

ORDER

Petitioners are two ladies who were the sureties to the accused in S.T. No. 2244 of 2006 of the Judl.First Class magistrate Court-III, Kozhikode , which was a prosecution under Sec. 138 of the Negotiable Instruments Act, 1881. The bond amount was Rs. 10,000/- each. Consequent on the failure on the part of the accused to appear before Court, proceedings were initiated under Section 446 Cr.P.C. against the petitioners. To the show cause notice issued to them no satisfactory explanation was offered by the petitioners. The trial court, accordingly, imposed the entire bond amount by way of penalty and ordered that if the said amount became irrecoverable, both the sureties shall undergo imprisonment in civil prison for a period of 20 days each. Aggrieved by the order, the petitioners preferred an appeal before the Sessions court as Crl.A. No. 249 of 2007. That court also confirmed the findings of the trial court but considering the fact that the revision petitioners were ladies, the penalty amount was reduced to Rs. 7,500/- from Rs.10,000/-. It is the said judgment which is assailed in this Revision.

2. It is an admitted fact that the accused in S.T. No. 2244 of 2004 for whom the petitioners stood as sureties committed default in appearing before the court. Thereupon the petitioners incurred the liability to forfeit the bond and to pay the bond amount as penalty. They had no sufficient cause to be offered in response to the show cause notice issued to them. Having regard to the nature of the prosecution which the accused in S.T. 2244 of 2004 was facing and having further regard to the fact that the petitioners who are related to him might have been deceived by him and both the petitioners are widows whose husbands are no more as evidenced by Annexures 2 and 3 death certificates, I am inclined to show some indulgence to the petitioners.

Accordingly, this revision is allowed in part reducing the penalty payable by the petitioners to Rs. 5,000/- (Rupees five thousand only) as against Rs. 7,500/- (Rupees seven thousand five hundred only) ordered by the lower appellate court.

V. RAMKUMAR,
(JUDGE)

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